

# MONO COUNTY PLANNING COMMISSION

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## MINUTES

April 8, 2004

(Adopted June 23, 2004)

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COMMISSIONERS PRESENT: Scott Bush (late), Rick Kattelmann, Sally Miller, Steve Shipley, Bill Waite  
STAFF PRESENT: Scott Burns, CDD director; Keith Hartstrom & Larry Johnston, principal planners; Gwen Plummer, associate planner; Denice Hutten, Public Works; Mark Magit, deputy county counsel; C.D. Ritter, commission secretary

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1. **CALL TO ORDER:** Chair Bill Waite called the Special Meeting to order at 2:44 p.m. (afternoon session at Town/County Conference Room, evening session at Town Council Chambers, both at Minaret Village Mall in Mammoth Lakes).
2. **PUBLIC COMMENT:** No items.
3. **MEETING MINUTES: MOTION:** Approve minutes of Planning Commission meeting March 11 (Miller/Kattelmann. Ayes: 4-0. Absent: 1.) and combined Planning Commission/Mono Supervisors meeting March 16, 2004. (Kattelmann/Miller. Ayes: 4-0. Absent: 1.)
4. **CONSENT AGENDA:** No items.

5. **AMENDMENT TO JUNE LAKE HIGHLANDS FINAL SPECIFIC PLAN/PARCEL MAP 34-57/ Premier Properties at June Lake, LLC.** The proposed project would divide APN 15-010-15, totaling 1.55 acres, into four single-family residential lots with parcel sizes from 15,882 to 19,050 square feet. The site is proposed as an addition to the adjacent June Lake Highlands Specific Plan. The project is located on the north side of Leonard Avenue in June Lake adjacent to The Highlands at June Lake. The General Plan and Area Plan designation is "Specific Plan." In accordance with Section 15164 of the CEQA Guidelines, an addendum to the previously prepared Environmental Impact Report is being utilized for the project. *Staff: Larry Johnston & Gwen Plummer*

Associate Planner Gwen Plummer showed slides of the project and outlined staff recommendations.

**OPEN PUBLIC HEARING:** Dave Laverty, Triad/Holmes Associates, indicated single-family residential property immediately to the west. The subdivision is surrounded by SFR, creating a nice neighborhood. A dry well would be built before any houses, so catch basins and easements would be in place. Highlands has a fallow swale just off the NE corner that runs down into the ground. The owner will build a swale to divert overflow drainage onto Parcel 4. Highlands SP height limits apply here, according to Deputy County Counsel Mark Magit. **CLOSE PUBLIC HEARING.**

**MOTION:** Adopt the Amendment recommended by staff, with three modifications to Conditions of Approval: 1) Item #15: Delete parenthetical comment; 2) Item #19: A deposit of \$3,312 shall be made to the June Lake Thoroughfare Fund; and 3) Item #26: Delete entirely. (Miller/Kattelmann. Ayes: 4-0. Absent: 1.)

6. **PARCEL MAP 37-170/Hebert. – RECOMMENDED CONTINUANCE TO MAY 13, 2004 –** The proposed project would divide APN 60-150-06, totaling one acre, into three residential lots. The parcels range in size from 10,000 to 20,154 square feet. The project is located on the west side of Crowley Lake Drive in Hilton Creek. The property is designated Mixed Use (MU) in the General Plan and has an existing duplex apartment on the north side of the property. A portion of the property has been delineated as jurisdictional wetlands. In accordance with Section 15183 of the CEQA Guidelines, a prior Environmental Impact Report is being utilized for this project, which is consistent with the General Plan and land use designation. *Staff: Keith Hartstrom*

Principal Planner Keith Hartstrom is working with the project applicant on 15 issues of concern noted in Lahontan RWQCB's wetlands delineation report. Resource Concepts will prepare a response to comments, hopefully by the next meeting. Access to the lot will involve the adjacent property owner. There will be opportunity to notice the environmental document to the public. **OPEN PUBLIC HEARING.** No comments. **CLOSE PUBLIC HEARING.**

**MOTION:** Continue the public hearing to an unspecified date. **AMENDED MOTION:** Continue the public hearing to May 13, as recommended by staff. (Miller/Kattelmann. Ayes: 4-0. )

7. **USE PERMIT MODIFICATION 32-02-02/Bridgeport Ranch Barns & Terrace/Romero.** The proposed project would provide for summer outdoor events in conjunction with the property's historic barns. The modification would increase the maximum number of people from 100 to 250 in addition to an extension of operational time for amplified music from 10 p.m. to midnight. The parcel is 3.3 acres in size (APN 08-131-15) and is presently developed with two barns and corrals. The property is located near the northeast corner of Kirkwood Street (Twin Lakes Road) and Hwy. 395 in Bridgeport. The project is Class II Categorically Exempt. *Staff: Keith Hartstrom*

Hartstrom presented a video of the property and outlined staff recommendations. Some Conditions of Approval from the 2002 permit are still being addressed and need sign-off by Building Official Bob Floyd. Definition: Class II Categorical Exemption is for construction or replacement of minor structures, seasonal or temporary uses.

**OPEN PUBLIC HEARING:** Applicant Benny Romero presented terrace event photos and noted the historic barns, built in 1891. He believes increased event attendance would balance the economic scale for him. He noted that nearby rodeos have amplified sound, and Condition #10 allows monitoring by "unscheduled noise verification testing by county staff." The curfew in Bridgeport is 11 p.m., but some businesses stay open later. Romero indicated the sheriff would provide security, if needed.

Sherry Sorensen, nearby resident, learned of today's hearing late and had no time to compose a letter. She contended that Romero's notice in Sierra Scoop, advertising events till midnight – before his proposal had even been reviewed – was improper. Her main concern is noise, as her backyard is in a direct line of sound across a pasture. After an event the noise of people clapping, talking and carrying on takes at least an hour to settle down. Also, the outdoor lighting, which is supposed to be shielded, is highly visible from Hwy. 395 and Twin Lakes Road. Additional parking to the south would bring more cars and more people. Sorensen referenced Romero's petition for curfew change that was signed by 86 of 800 residents, indicating that many signatories do not live near the noise and just want a place to party. Sorensen proposed turning down music volume, or containing the sound (e.g., Plexiglas).

Deputy County Counsel Mark Magit explained that the county's noise ordinance calls for reduction of decibel level at 10 p.m. Also, excessive noise can shut down an event.

There was discussion of "special" events vs. "scheduled events" and what "occasional" means (according to whom?). It was noted that Double Eagle Resort in June Lake has amplified music per Use Permit, but sound barriers are required and music ends at 10 p.m. One commissioner noted that talking sometimes exceeds music levels, as he has heard partying three to four miles away.

Romero indicated that prior to his setting up anything, Sorensen had said she would "fight him all the way." **CLOSE PUBLIC HEARING.**

**DISCUSSION:** In a lengthy discussion, the following concerns emerged: 1) Events: How many in summer? (Romero said six to eight plus weddings.) 2) Curfew: 10 p.m. is good, as events never end at 10 anyway. People don't shut off when the music does. There's more noise out of 100 people than amplified music. Weekly events till midnight would be loud, with or without amplified music. 3) Noise: Decibel level past 10 p.m. (NOTE: A noise complaint was filed March 4, 2003, and compliance inspections were conducted July 2 and 27.) 4) Romero's petition: Referred to curfew change, but did not mention amplified sound. 5) Sheriffs: Off duty at midnight, so who would handle noise complaints afterward? 6) Crowd control: Going from 100 to 250 would be a huge difference. If nobody is there

to control or respond -- and people in Bridgeport know that -- that's a lot of people. 7) Alcohol: If it can get in and not be restricted, that's a concern. 8) Security: Most places have their own event security. General events do not require security, but an event over a certain size, with alcohol served, might. Magit indicated a condition could be imposed based on the type of event and foreseeable attendance. 9) Cars, people and noise: In Bridgeport at night, ambient sound is close to zero. 10) Complaints: For every person who complains, 10 others probably are annoyed. When pushed beyond a certain level, however, people *will* complain.

Compliance Specialist Mike Garcia, who coordinates special event permits, could have responded to some of the above concerns had he been present.

Romero could set up the Building Division's noise meter at his property line, but the noise level likely would be exceeded as soon as the amplifier was turned on. Romero was asked if he would consider fewer people. He recalled that when local ranchers erected an American flag [on his property], 250 people attended. In that case, he had exceeded the limit.

**MOTION I:** Deny Use Permit Modification as it stands. (Bush/Shipley. Motion was tabled to make way for another motion, then reopened for vote: Ayes: 2. Noes: 3.) **MOTION FAILED.**

**MOTION II:** Approve as presented, but: 1) no time extension to midnight; 2) minimum of three parking spaces in conformance with Building Official approval; and 3) add condition #12: review in October. (Miller/Kattelmann. Ayes: 3. Noes: 2.) Chair Waite encouraged public comment at the October review, and Sorensen requested notices be sent to all Bridgeport residents and box holders.

**ADJOURN:** 5:50 p.m. **RECONVENE:** 6:36 p.m.

8. **PARCEL MAP 37-172/Steel (CONTINUED FROM MARCH 11, 2004).**

The proposed project would divide APN 64-100-18, totaling 13.5 acres, into five lots ranging in size from 2.03 to 3.41 acres. The property is located in the community of Wheeler Crest on the west side of Valley View Road, between Rimrock Drive and Wilson Road. The property is designated Estate Residential (ER 2) with a two-acre minimum lot size in the General Plan. In accordance with Section 15183 of the CEQA Guidelines, a prior Environmental Impact Report is being used for a project consistent with the General Plan and land use designation. *Staff: Keith Hartstrom*

Keith Hartstrom summarized 44 project conditions, outlined staff recommendations, and showed a video of the site.

**RECONVENE:** 7:30 p.m. after brief dinner break

**OPEN PUBLIC HEARING:** Linda Hess, 14-year area resident, commended staff work. She believes the parcel ought to remain open in perpetuity, but respects property rights and economic gain associated with the project. She suggested considering alternatives to the plan. Listening to 44 conditions brought to her mind the uniqueness of this parcel. The General Plan encourages cluster development and preserving additional open space permanently. The parcel *does* possess unique environmental peculiarity. Because many nearby areas are arid, riparian corridors and two perennial streams are significant. Fox, deer, bobcat, quail and hawks find cover on the parcel. DFG purchased 100 acres at the southern end of the parcel to preserve a deer migration corridor, and has requested additional time to study this project. She urged Planning Commission to continue the discussion.

David Baumwohl, applicant's attorney, also commended staff work. The project is not unique under CEQA, and density is far below Mono County standards and Wheeler Crest minimums. The property is not remote, but bordered by main arterials Wilson Road and Valley View. A wider-angle video would have shown that the parcel is surrounded by homes. Botanical and archeological studies, commissioned by the county and paid by the applicant, found no specific unique impacts not already addressed. It is a controversial project, but the analysis is thorough. Huge mitigation takes care of visual and vegetation disturbance. DFG has had numerous opportunities to comment. All properties have 50' easements, not 30', so plenty of corridor space allows for movement of wildlife. He strongly opposed any further time extensions, saying the applicant is entitled to prompt due process.

Steven Ingram, botanist neighbor, thanked the commission for rescheduling this meeting. The property is used heavily as a mule deer herd's winter range and migration corridor. Deer are an important resource, yet development proceeds unabated as if it had no impact. He outlined comments by botanist Dr. James Paulus and DFG wildlife biologist Denyse Racine. Ingram contended

that squeezing a house and infrastructure on Lots 1 and 5 not only would be inappropriate and impractical, but also detrimental to development of setbacks. He suggested merging Lots 1-2 and 4-5, and retaining as natural open space the areas inappropriate for development.

Ray Dutcher, area resident, indicated that Lot 1 is not suitable for the development proposed. A mass of willows that extends farther than 50' into the buildable area would impede a fire access road. Mini bogs exist. The interior of Lot 1 has only one access. This major deer browsing area attracts cars with families, binoculars and cameras. He recommended combining Lots 1-2.

Dan O'Dell, area resident, is not anti-development, but does see environmental problems. The applicant could reap similar profits from easements, larger lots, and fewer buildings. Tax benefits would work, he said, and offered his professional CPA services at no cost. He requested continuance to consider alternatives.

Jeanne Oakeshott, area resident, requested clarification and reduction of unavoidable significant impacts. All findings refer to Section 15183, which indicates nothing "peculiar" about this parcel. She contended that riparian corridors *are* peculiar (e.g., DFG purchased 100 acres of adjacent land for deer). The biggest problem is lack of alternatives. She acknowledged that development aspires to make as much money as possible given the lay of the land and minimum requirements. Yet the natural open space is what drew people here. She suggested adding CC&Rs to the final document, reducing the number of lots to three, and clustering building sites to mitigate impacts to wildlife.

Dennis Oakeshott, 11-year resident, lives across from Lot 1 and "would have to look at this project." He had concerns about the horizon line, and hoped a better plan would emerge than the "large boxes on the horizon" at Sierra Springs in Crowley Lake. The proposed septic seems close to his well, which produces a lot of water, including all drinking water. Because Lot 1 is pinched for building space, he suggested it be left as open space for deer habitat.

Ralph Haber, 10-year area resident, refuted the implication that all legal issues have been spelled out. There is a tremendous amount of detail about the value of natural and visual resources and maintaining balance. "What's best for Mono County?" he asked. "That's why there's a planning commission, not just a planning department." He encouraged commissioners to exercise their authority, interest and values in making a decision.

Robert Atlee, area resident, suggested that combining Lots 1 and 2 into a four-acre lot with two streams would be of value to all concerned.

Karen Ferrell-Ingram, area resident, thanked the commission for scheduling a meeting when more people could attend. She wants perennial streams protected, and three lots instead of five. Although she respects land ownership, she also encourages respect for the lay of the land. She requested legal cost estimates for enforcement and monitoring of five lots with 44 Conditions of Approval.

Dan Bacon, 32-year area resident, thanked staff for its detailed work and the opportunity to speak. Conspicuously missing is information on water supply. No one has asked for baseline data or a hydrological report. The parcel is in the rain shadow of Wheeler Crest, and backup sources of water – snowfields, streams, lakes, deep-water sources – do not exist in Swall Meadows.

Pam Mitchell, 13-year Crowley Lake resident, attended as an interested county citizen. She suggested that laws extend to all, and people should be treated fairly and equally. "Let others come here too, because they like looking at what we look at. We need to fit them into our rules and regulations, not keep them out." She suggested that all parties work together.

**REBUTTALS:** Linda Hess disagreed that a decision must be made tonight. Wildlife consultant Dan Dawson indicated to her that Mono County is obligated to listen to comments from DFG, a trustee agency under CEQA. She said the project deserves careful, considered, progressive planning.

Mark Magit confirmed that the project complies with CEQA, and no separate EIR is required. Although DFG did not submit written comment till now, the agency had had earlier conversations with Keith Hartstrom. When DFG purchased the adjacent corridor, required mitigation measures were incorporated as well as further mitigation for concerns about setbacks and drainages. A prior deer study was carefully analyzed in the General Plan. It is not a violation of CEQA to proceed today, but does the commission need or want more information?

David Baumwohl indicated that this is not the forum to discuss alternatives, as they are not part of the planning process. The applicant considered the open space element when determining lot sizes and site coverage. Both are greater than the legal requirement. All impacts to deer in the area have been studied, identified and addressed. When the General Plan was adopted and environmental documents were certified, staff analyzed anticipated growth and identified potential impacts. The applicant does not oppose any of the 44 Conditions of Approval. Notice was given, comment letters received, agencies given opportunity to comment, and special districts notified. The key is information gathering – not whether the choice is wise, but whether it is informed. **CLOSE PUBLIC HEARING.**

**DISCUSSION:** A Parcel Map does not go to the Mono Supervisors unless an appeal is filed – the Planning Commission is the decision-making body.

This parcel is part of an existing community, and Swall Meadows residents have expressed legitimate concerns. Commissioners discussed deer impacts, and noted that deer get pushed into new areas whenever building occurs. Lot 1 affects drainage, wildlife and sewage. There was concern with the small building envelope on Lot 1 (a house would have to be “dropped in on a dime”) and willow coverage for deer. Utility disturbance is a major factor, as everything in its path is destroyed and never comes back. There is only one place to put a leach field, which could disturb an area up to 100’ x 100’. Also of concern are issues in the DFG comment letter. Future developments are dependent on DFG approval, and the agency is a suggestive body with a lot of clout. The parcel was bought with the option to divide, but topography, abutment to the DFG corridor, extensive willow coverage, and drainage make it a specifically different piece of land.

It was noted that the county’s biggest concern is not infill development, but leap-frog, sprawl development. This is a chance to do something smart for the future. Although many things *could* be done, only some *should* be done.

**CONSULTATION BREAK** for applicant and attorney.

Baumwohl indicated that if Lots 1-2 were combined, his client was prepared to accept the compromise and erase the building envelope on Lot 1.

**MOTION:** Approve staff recommendation, with the following change: Combine Lots 1 and 2, building only on the former Lot 2 area. (Shipley/Kattelman. Ayes: 5-0.)

9. **WORKSHOPS:** No items.
10. **REPORTS:**
  - A. **DIRECTOR:** Chair Waite introduced supervisors-elect Vikki Magee-Bauer (District 3) and Hap Hazard (District 2), whose terms of office begin Jan. 1, 2005.
  - B. **COMMISSIONERS/STAFF:** Principal Planner Larry Johnston outlined progress on the Intrawest Rodeo Grounds Specific Plan application, which was deemed complete March 19. Postcard notices of an environmental scoping meeting April 20 were sent to property owners, CAC members and agencies. The scoping issues will be handled by yet-to-be hired consultants, who will revamp the applicant’s Specific Plan into the county’s format and show any contrasts. The EIR/EA is a joint document because of the proposed off-site water-storage facility. An SB610-SB221 water assessment required for large projects is usually handled by a water agency, but defaults to the County when a small district is involved.

The draft Specific Plan anticipated by late summer could reach the Planning Commission by early 2005. Hearings will be held at that time. A development agreement has been considered, but usually is requested by the developer to lock in zoning. CAO Dave Wilbrecht would be the county’s point person on a development agreement. According to Magit, once zoning is set by a development agreement, it is what the applicant is responsible for and must comply with. Everyone would know what’s expected.
11. **ADJOURN:** 9:53 p.m.

Respectfully submitted, C.D. Ritter, commission secretary